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SUBJECT: Ukraine: Submission for the 2006 TIP Report

Ref: A) State 3836 B) Kiev 398 C) Kiev 521

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1. (U) Embassy Kiev's responses to the 2006 TIP report questionnaire are presented below. Answers are keyed to questions in ref A.

Overview (Ref A Para 21)

2. (SBU) (21A) Ukraine is a country of origin for internationally trafficked men, women and children. The primary destination countries according to the International Organization for Migration (IOM) are Turkey, Russia, and Poland. Between 2004 and 2005, Russia moved from third place to second place on the list of destination points for Ukrainian victims trafficked for sexual and/or labor exploitation. Russia also continued to serve as a transit country for trafficked Ukrainian victims to other destination points given the relative ease of moving people illegally across the porous Ukrainian-Russian border. The number of countries serving as destination points for trafficked Ukrainians continued to grow, according to IOM statistics: in 2003 there were 41 countries, in 2004 there were 47, and in 2005 there were 49, with China and Lithuania becoming the latest two countries identified as destination points. The countries with the highest numbers of reported Ukrainian victims in 2005 in descending order were Turkey, Russia, Poland, the Czech Republic, Italy, Israel, Greece, Serbia and Montenegro, the UK, Lithuania and Portugal.

3. (SBU) (21A continued) Ukraine continued to be a transit country for internationally trafficked women from Moldova, Russia and other former Soviet republics. There also were signs that Ukraine may be becoming a country of destination for trafficked victims. In 2005 women were trafficked from Moldova to Ukraine for labor and sexual exploitation. There was also a report of a woman from Moldova who trafficked her own children to Ukraine so they could beg money on the streets. These reports indicate the growing prosperity of Ukraine relative to some of the other former republics of the Soviet Union, compounded by the ease of travel between these countries, their shared second language (Russian) and historical family, social, and professional links.

4. (SBU) (21A continued) In 2005, two-thirds of the Ukraine women who were trafficked suffered sexual exploitation (68 percent of IOMs caseload), one-third suffered labor exploitation (30 percent of IOM's caseload) and a very small percentage suffering both or being forced to beg. There also were a small number of women who were trafficked to bear children for infertile couples. Men were exploited primarily for labor purposes. However, concrete data for trafficked men was hard to obtain because trafficked males generally did not recognize themselves as victims of trafficking, and thus rarely turned to law enforcement agencies and/or NGOs for assistance. According to International Labor Organization (ILO) research on returned migrants in four eastern and southeastern European countries, including Ukraine, labor exploitation occurred primarily in the agriculture and construction sectors. A sample of 300 victims of forced labor showed that 23 percent had been coerced into sex work, 21 percent into construction, and 13 percent into agriculture. The remaining victims (43 percent) were coerced into a number of employment fields including domestic service and care work, small manufacturing, restaurant work and catering, and food processing.

5. (SBU) (21A continued) According to local experts and the ILO, children trafficked across state borders were recruited primarily to serve as street-venders, domestic workers, agricultural workers, waiter/waitress, and sex workers. However, upon arrival at their final destination, children usually ended up in the sex industry or were forced to beg. Children trafficked within Ukraine also were initially recruited for work as cleaners, waiters, and vendors, but once again, in most cases were ultimately coerced into providing sexual services or begging.

16. (SBU) (21A continued) The assessment report of the Ukrainian Adoption System by the International Reference Center for the Rights of Children Deprived of their Family and International Social Service did not find any evidence to suggest that trafficking of children through adoption for exploitation occurred in inter-country adoptions from Ukraine.

17. (SBU) (21A continued) Trafficking in persons did occur within Ukraine's borders. In 2005, IOM registered six people, including three minors, who were victims of internal trafficking. They were trafficked from one region to another for the purpose of labor (agriculture and service industry), sexual exploitation (prostitution and pornography), and begging. There were also reports from NGOs that women with underage children were trafficked within a region or a city and the children were forced to beg. Moreover, some mothers pimped their own underage daughters or contracted them out to studios producing pornographic material.

18. (SBU) (21A continued) There is no Ukrainian territory outside the control of the GOU.

19. (SBU) (21A continued) Estimates vary regarding the number of trafficked Ukrainians, but IOM's polling data indicated that one in every 10 Ukrainians knew someone in their community who had been trafficked. Ukraine has treaties permitting Ukrainian citizens to work abroad legally with only a few countries. It is clear, therefore, that the hundreds of thousands of Ukrainians who leave the country in search of work fall outside these treaties, seek work illegally, and are at risk of being trafficked and exploited. Experts from GOU's Institute for Strategic Research estimated that at the end of 2004 more than seven million Ukrainians worked abroad, with only 500,000 doing so legally. In 2005, IOM provided 720 victims with assistance and referred 242 of them to the rehabilitation center. The Ministry of Interior (MOI) reported 446 victims, including 39 minors, were victims in criminal cases last year.

110. (SBU) (21A Continued) Figures for trafficking were supplied primarily by international organizations, the MOI, the Ministry of Family, Youth and Sport (MFYS), the Ministry of Foreign Affairs (MFA), and other relevant Ukrainian government agencies. Statistics did not reflect the full scope of the problem as the numbers tabulated reflect only registered victims; i.e., those who had returned to Ukraine through the assistance of Ukraine's Embassies or international organizations or those who had appealed to international organizations or GOU agencies for help.

111. (SBU) (21A Continued) According to IOM, groups targeted for trafficking remained largely constant: females up to 30 years of age (for sexual exploitation) and older females (for labor exploitation), males of all ages, and children under the age of 16. The majority of victims who received assistance from IOM had been employed at the time of their recruitment but with salaries on average of less than USD 50 a month, which is low by Ukrainian standards.

112. (SBU) (21B) Since last year's TIP report the level of trafficking and the number of people who were vulnerable to being trafficked remained relatively constant. However, the 2005 statistics collected by IOM recorded an increase in the number of minors trafficked to Russia for sexual exploitation. Also a new sector for labor exploitation came to light in 2005 involving Ukrainians in Russia's fishing industry. Twenty-five Ukrainian men were recruited by an employment agency in Mariupol, a city in eastern Ukraine, to work on a crabbing trawler in the Russian Far East. The Ukrainians worked 20 hours a day with little food and water. The trawler never came to port and food and water were transported to it by another ship. The sailors effectively were imprisoned on the ship. The district prosecutor in Russian's Sakhalin oblast instituted a criminal case regarding the labor exploitation of the Ukrainian fishermen. A criminal case regarding human trafficking also was initiated in Ukraine against the company that recruited them. Despite the higher numbers in 2005 and this new area of labor exploitation, the general consensus among experts was that trafficking from Ukraine had not necessarily grown, but that cooperation had increased between international and local NGOs and law enforcement bodies, that reporting was improved and that awareness had increased overall among officials at all levels regarding the problems of trafficking.

113. (SBU) (21B continued) The Ukrainian administration which came to power following the "Orange Revolution" has taken a more assertive stance on TIP relative to previous Ukrainian governments. High-ranking officials, such as the

Minister of Interior, and the Minister for Family, Youth and Sport and Ukraines First Lady have acknowledged publicly that TIP is a very serious problem in Ukraine; they have called on people to unite in the struggle against TIP and to end the narrow thinking that stigmatizes TIP victims as willing participants in their own trafficking. In March 2005, the MOI created a Department for Combating TIP with over 500 officers assigned throughout Ukraine's 27 regions dedicated exclusively to investigating TIP cases. Funding for MOI TIP efforts increased from UAH 3,440,200 (USD 681,228) to UAH 9,422,100 (USD 1,865,762). On January 12, 2006, Parliament amended Ukraine's Criminal Code to harmonize it with the TIP provisions of the UN Palermo Convention and Protocol; the changes came into force on February 10, 2006. In April 2006, the Supreme Court is scheduled to release guidance for the lower courts regarding the new amended Criminal Code as well as its assessments of how courts can improve the hearing of TIP cases, based on its review of court cases to date.

14. (SBU) The one branch of Ukraine's law enforcement community that did not take an aggressive approach to prosecuting TIP was the General Prosecutor's Office (GPO) (Ref B and C). In response to the Embassy's demarche in mid-2005, the GPO elevated TIP to its list of five priority crimes. However, the GPO did not accept the Embassy's suggestion that a specialized GPO anti-TIP unit be created. The General Prosecutor took the position that Ukraine's court prosecutors do not specialize and that the low volume of TIP cases did not justify the resource commit necessary to create a specialized unit. Regarding a TIP victim witness protection program, the situation in Ukraine remained unchanged. The GOU's position continued to be that its limited budget prevented it from developing a witness protection program for any criminal offense beyond its current practice of providing a two-person protective detail for witnesses for the duration of trials, if deemed necessary.

15. (SBU) (21B continued) Victims were usually trafficked into conditions of severe exploitation that include beatings, limited and low-quality food, no medical assistance, and long work hours. For instance, the IOM reported that women trafficked to Turkey were forced to take antibiotics and contraceptives without medical oversight which resulted in serious, long-term health problems for the victims.

16. (SBU) (21B continued) Children were reported to be an at-risk group for trafficking. Street children or children from low-income homes or with drug/alcohol dependent parents were especially at risk as these children often were forced to sell themselves to survive or the parents sold their children to recruiters for pornographic exploitation or to be trafficked. According to the network End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes, 18 percent of street children in Ukraine had been victims of sexual violence or exploitation. Another vulnerable category was orphans. By law these children must leave the orphanages at age 18, but are afforded only limited social support as they begin their independent lives. Among women engaged in prostitution in Ukraine, 11 percent are girls aged 12 to 15 and 20 percent are aged 16 to 17. People in rural areas were deemed an at-risk group as they had less exposure to public information campaigns on the risks of being trafficked. According to data gathered by a social research company for IOM, people in rural areas were less likely than their urban counterparts to believe they would become victims of trafficking and therefore did less due diligence on the offers they were made (legal or illegal) to work abroad.

17. (SBU) (21B continued) All Ukrainians who went abroad illegally to work were at risk of being exploited. According to research by the ILO the lack of information on how to apply for legal employment abroad made most Ukrainians dependent on private intermediaries, who in many cases were conduits for trafficking. The study showed that individuals who used trusted social connections or legal channels were, for the most part, employed safely abroad, whether legally or illegally. In contrast, the majority of forced labor victims had fallen prey to unscrupulous intermediaries because they had insufficient knowledge how to get legal employment abroad, or how to return if abroad illegally but in need of help.

18. (SBU) (21B continued) Some employment, travel, marriage and model agencies also served as recruitment mechanisms for TIP. As of December 2005, there were 434 companies serving as intermediators or helping Ukrainians find jobs abroad. Companies that engaged in trafficking tended to be affiliated with organized crime groups, had foreign partners, and bribed corrupt officials to facilitate the movement abroad of the victims. The number of males and females among these recruitment companies was almost equal. Sometimes females served as success stories for potential

victims by flaunting how much money they ostensibly earned abroad. The majority of the recruiters were Ukrainians. It was quite common for victims to receive offers to go abroad from their friends or a friend of a friend and even sometimes from relatives.

19. (SBU) (21B continued) Traffickers used a variety of methods to recruit victims, including ads in newspapers, on local television channels, and on radio stations. Jobs advertised abroad offered high salaries relative to the salaries for the same job in Ukraine. Most often the positions advertised required limited qualifications such as jobs in the hospitality industry (waiters, bartenders, or hotel staff) or in factories. Another approach was to offer fake marriage proposals. Often traffickers presented themselves as friends of other friends, owners of a bar/cafe somewhere abroad or friends of such owners and deceived potential victims. The traffickers often paid for the processing of passports and travel documents for the victims, thus placing them in debt bondage. In some rare cases, traffickers simply kidnapped their victims. In 2005, there were several such cases involving minors who were trafficked to Russia for sexual exploitation.

20. (SBU) (21B continued) In the majority of cases, victims traveled on their own passports. However, false passports with false dates of birth were often produced for victims under the age of 18 so they would comply with age requirements for travel without adult supervision or parental consent. In some cases corrupt border guards facilitated the movement of adults and minors across the border without any identity documents. Given the very porous nature of Ukraine's border with Russia, undocumented travel across the border is relatively easy. For example, law enforcement authorities in the Dnipropetrovsk region uncovered an organized crime ring that delivered underage virgins to a client in Moscow. Girls without documents were moved across the Ukrainian-Russian border to the client in Russia and then returned home two to three days later. A policeman from region's police unit for crimes against minors was a member of the ring. The case is currently in court.

21. (SBU) (21C) The GOU's ability to address TIP is limited by a variety of factors: a lack of understanding of the problem by some government agencies, budget constraints, corruption, and the limited period the more progressive Ukrainian Government has been in office. For example, the Ministry of Economics did not support the idea of a creating new Comprehensive Anti-TIP Program as it did not see TIP as a priority issue. The General Prosecutors Office did not agree to establish a special anti-TIP unit since it did not believe the problem to be widespread. Other government agencies, however, did take the issue seriously and did cooperate with international organizations and local NGOs in conducting information campaigns, hosting seminars and roundtables, and supporting reintegration centers, but rarely did this cooperation entail substantial financial support as the GOU agencies claimed budgetary constraints. Nevertheless, relative to previous years GOU financial contributions have improved, albeit incrementally. The Ministry of Finance reported that it allocated in 2005 UAH 1,177,200 (USD 233,109) for implementation of the Comprehensive Anti-TIP Program, including UAH 145,000 (USD 28,713) from the state budget and UAH 1,032,200 (USD 204,396) from local budgets. MOI's Department for Combating TIP and its 27 regional divisions received UAH 9,422,100 (USD 1,865,762).

22. (SBU) (21C continued) The GOU enacted positive legislative changes and structural changes in the law enforcement community. The process involved extensive lobbying with bureaucrats and parliamentary deputies. Corruption remains endemic in Ukraine, a fact that the GOU has openly acknowledged, and continues to have a substantial corrosive effect on the efficiency and integrity of government services, including the judiciary and law enforcement. The GOU is struggling to address the issue with a variety of new anti-corruption initiatives. In 2005, five regional anti-TIP officers within the MOI were charged for taking bribes related to TIP. These cases are in the courts.

23. (SBU) (21D) The MFYS monitored the implementation of the government's Comprehensive Anti-TIP Program for 2002-2005 and submitted annual reports as well as a three-year review to the Cabinet of Ministers. These reports, however, were not widely disseminated. The MOI monitors and generates annual statistics on the number of TIP crimes committed as well as the number of cases it handled.

Prevention (Ref A Para 22)

24. (SBU) (22A) The GOU acknowledged that trafficking is a

problem in Ukraine and increased efforts to fight it. In March 2005, Yushchenko government placed greater emphasis on TIP as an issue of concern for the government. High-ranking GOUs officials, such as the Minister of Interior and the Minister for Family, Youth and Sport and Ukraines first Lady used the electronic media to educate the public on the seriousness and scope of the problem of TIP in Ukraine. In particular, the Minister for Family, Youth, and Sport, who is also the GOU's Inter-Agency Coordination Council Chairman, and the Minister of Interior spoke out publicly against TIP at frequent public events and underscored the need to de-stigmatize victims of TIP. On March 30, 2005, MOI raised the status of its TIP unit, previously subsumed within the Criminal Investigation Department and responsible for a broad range of issues, to a stand-alone Department focused solely on combating TIP. Over 500 officers were assigned to country's 27 regional administrative units with the sole purpose of investigating TIP. The Ministry of Finance calculated the three-year cost of implementing the 2002-2005 Comprehensive Anti-TIP Program was UAH 2,466,800 (USD 488,475). The MFA established centers in Ukraine to educate citizens on the risks of working abroad illegally. In 2005, the MFA also held in Istanbul a specialized TIP training course for its consular officers stationed in the countries of the Black Sea region. The Supreme Court informed the Embassy that it was finalizing its analysis of TIP cases and expected to circulate it to the country's lower courts in April 2006 in order to help judges avoid legal mistakes made in adjudicating previous TIP cases.

125. (SBU) (22B) According to the GOUs Comprehensive Anti-TIP Program for 2002-2005, anti-trafficking responsibilities were allotted to the following government agencies: MFYS, MOI, MFA, the Ministry for Education and Sciences, the Ministry of Justice, the Ministry of Labor and Social Policy, the Ministry of Health, the State Security Service (SSU), the State Committee for Information, the State Border Guard Service (SBGS), the State Committee for Nationalities and Migration, and the State Tourism Administration. The most prominent and active GOU agencies in this field in 2005 were the MOI, MFYS, and MFA. The Inter-Agency Coordination Council, established in the spring of 2002, coordinated and monitored the government's response to TIP, with the objective of strengthening the capacity of relevant government authorities. At the regional level, similar Coordination Commissions were established and met regularly. In 2005, the Council made a tentative recommendation, although not endorsed by all Council members, that a National Anti-TIP Coordinator be established within the context of the new Comprehensive Anti-TIP Program for 2006-2010.

126. (SBU) (22C) No information or public education campaign in Ukraine in 2005 was exclusively funded or run by the government. As a general rule, the GOU supported campaigns funded by bilateral or international donors by placing social advertisement on government TV and radio stations free of charge. The Ministry for Education and Science in cooperation with the NGO Womens Consortium, the Red Cross, and IOM initiated a TIP information campaign to raise awareness among both pupils and teachers. Several television stations broadcasted documentary films and informational programs highlighting the danger of human trafficking. NGOs conducted general awareness campaigns throughout the country at the local level, often in cooperation with local government entities. International organizations also enlisted Ukrainian celebrities to participate in TIP-prevention information campaigns. Ruslana, winner of the 2004 Eurovision contest, supported the OSCEs efforts and Ukraine's most popular signer, Vakarchuk, lead vocalist for the pop group Okean Elzy, worked with IOM. At nationally televised events, public officials urged their fellow citizens to be supportive of TIP victims and to avoid being trafficked.

127. (SBU) (22D) MFYS continued to run a number of credit programs to support young people such as the "outreach to rural youth" and "mortgages for young families." However, the programs' small budgets limited their impact. The Ministry of Labor, along with the State Employment service and MFYS, supported a special program entitled "Rural Women" aimed at raising education levels of rural women. n. The State Employment Centers continued to encourage unemployed women to start their own small business by training them and providing them with a lump sum payment of unemployment benefits.

128. (SBU) (22F) Good cooperation existed between the government and civil society, both at the national and local levels. However, once again, due to the government's limited financial resources NGOs usually provided necessary assistance to victims, including medical, psychological, and legal services. In some regions, active NGOs took the lead in coordinating TIP activities of local

governmental agencies. Local administrations included NGOs as partner organizations in their regional action plans.

129. (SBU) (22G) The State Border Guards Service (SBGS) and the MOI are the primary agencies that monitor immigration and emigration patterns for evidence of trafficking. SBGS reported that they analyze migration patterns on a monthly basis and send the information to MOI, GPO, and the SSU. In the fall of 2005, the MOI expanded the Department for Combating TIP to include illegal migration.

130. (SBU) (22H) The Inter-Agency Coordination Council was established in 2002 under the Comprehensive Anti-TIP Program. The Council's task was to coordinate the governmental response to TIP. In December 2004, an advisory working group to the Inter-Agency Coordination Council was established, and included representatives of NGOs and international organizations. At the regional level, similar Coordination Commissions were established. Within the law enforcement community, stovepiping of data management resulted in insufficient and slow dissemination of information. Timely sharing of information among relevant GOU agencies was further hampered by limited digital communication capabilities. Indeed, transfer of electronic data within an individual law enforcement agency among regions remained extremely limited, slow, and unreliable. In February 2005, the Minister of Interior cited constraints on internal communications and corruption as the Ministry's two largest problems. In the second half of 2005, MOI, SSU and SBGS agreed that senior officers would meet periodically to discuss ways to improve information flow and coordination between agencies. The problem of coordination and data sharing within and among Ministries hampered all law enforcement efforts in Ukraine, not just efforts to combat TIP.

131. (SBU) (22H continued) The National Security and Defense Council oversaw the drafting of a concept paper and action plan for the creation of an umbrella mechanism for prosecuting corruption that drew on Europe's best practices and standards. The paper laid out the principles for reforming Ukraine's law enforcement community to comport with European Union norms and standards. The President was expected to approve the concept paper by the end of March 2006.

132. (SBU) (22J) GOU completed its Comprehensive Anti-TIP Program for 2002-2005. At the end of 2005, the MFYS finalized the Concept Paper for the Comprehensive National Anti-TIP Program for 2006-2010. In addition to input from government agencies the Concept Paper received input from IOM, La Strada, UNDP, ILO and Caritas, as well as local NGOs that deal with trafficking. Once the Cabinet of Ministers approves the Concept Paper, a comprehensive program will be drafted.

133. (SBU) (22J continued) The Comprehensive Anti-TIP Program for 2002-2005 was widely disseminated at seminars and roundtables organized by the GOU in cooperation with international donors; however, the annual assessment reports on progress toward implementation received limited circulation.

Investigation and Prosecution (Ref A Para 23)

134. (SBU) (23A) On January 12, the Parliament passed the Law on Changes to the Criminal Code regarding trafficking in persons, thus harmonizing Articles 149 (trafficking in persons) and 303 (pimping or engaging a person in prostitution) with the UN Palermo Convention and its Protocol. The legislation also provided for extraterritorial jurisdiction for serious crimes, including human trafficking. On February 3 the law was signed by the President and on February 10 it entered into force. The law specifically prohibits trafficking in persons for various purposes, including sexual and labor exploitation, both internal and transnational. The new law covers recruitment of a person by means of deceit, blackmail, or the use of his/her vulnerable condition for the purpose of exploitation. In 2005, trafficking cases were also prosecuted under the following articles of the Criminal Code of Ukraine: Articles 150 (exploitation of children), 190 (fraud), 301 (pornography), 302 (operating brothels and pandering) and 303 (pimping).

Text of the new TIP statute follows:

Article 149. Trafficking in human beings or other illegal agreement on person

1. Trafficking in human beings or other illegal agreement with a person as an object, and also recruitment, transfer, receipt, transportation, harbouring of a person committed for the purpose of exploitation by means of deceit, blackmail, or the use of his/her vulnerable condition,

shall be punishable by deprivation of liberty for a term of three to eight years.

12. Any such actions as provided for by paragraphs one or two of this Article committed in respect to a minor (up to 18 years of age) or perpetrated upon two or more persons, repeatedly or by a group of persons with prior conspiracy, or by an official through the abuse of authority, or by a person upon whom the victim was dependent materially or otherwise, or committed in combination with violence that is not endangering life or health of the victim or his/her close relatives, or in combination with threats of such violence shall be punishable by deprivation of liberty for a term of five to twelve years, with or without the forfeiture of property.

13. Any such actions as provided for by paragraphs one, two or three of this Article, committed in respect to a minor (up to 14 years of age) or if committed in combination with violence that is endangering life or health of the victim or his/her close relatives, or in combination with threats of such violence or committed by an organized group, or if causing grave consequences, shall be punishable by deprivation of liberty for a term of eight to fifteen years, with or without the forfeiture of property.

Note 1. Exploitation of a person shall be understood as: all forms of sexual exploitation, use in pornography business, forced labor or services; slavery or practices similar to slavery, servitude, involvement into debt bondage, extraction of organs, experimentation over a person without his/her consent, adoption for commercial purposes, forced pregnancy, involvement into the criminal activity, use in armed conflicts, etc.

Note 2. Vulnerable condition in the Articles 149 and 303 of this Code shall be understood as: the status of a person, due to his/her physical or mental peculiarities or external conditions, that divests or abridges his/her ability to comprehend his/her commission or omission of an act or to manage his/her actions, to make his/her own decisions according to his/her will, to maintain adequate resistance to violent or other illegal actions.

Note 3. Responsibility for recruitment, transfer, receipt, transportation, harboring of a minor (up to 14 or 18 years of age) according to this Article shall be fixed whether or not such actions were committed with use of deceit, blackmail, or the use of vulnerable condition of a minor, or use or threat of violence, through the abuse of authority or by a person upon whom the victim was dependent materially or otherwise.

End of Text.

135. (SBU) (23B) Article 149 of the Criminal Code of Ukraine stipulates that traffickers can be sentenced to three to 15 years in prison. There were no specific penalties stipulated for a particular method of exploitation.

136. (SBU) (23C) Article 152 of the Criminal Code of Ukraine stipulates that a convicted rapist can receive a prison sentence of three to 10 years, and up to 15 years if the case involves a minor or if the rape resulted in particularly grave consequences for the victim. Penalties for rape are comparable to the penalties for trafficking.

137. (SBU) (23D) Prior to February 10, 2006, prostitution was criminalized under Article 303 of the Criminal Code of Ukraine. Currently, prostitution is no longer criminalized, but it can be punished as an administrative offense and carries a fine of UAH85 (equivalent to USD17) to UAH 255 (equivalent to USD50). The activities of brothel owners/operators remained criminalized under Article 302, but since it is also now addressed in the amended Article 303, most experts believe Article 302 will eventually be dropped. Being a client of a prostitute in Ukraine is not a crime.

Text of Article 303 follows:

Article 303. Pimping or engaging of a person into prostitution

1. Engaging of a person into or coercion to prostitution with use of deceit, blackmail or his/her vulnerable condition, or use or threat of violence, or pimping, shall be punishable by deprivation of liberty for a term of three to eight years.

2. Actions stipulated by paragraph one of this Article, perpetrated upon two or more persons, or committed repeatedly or by a group of persons with prior conspiracy, or if committed by an official through an abuse of authority, or by a person upon whom the victim was dependent materially or otherwise, shall be punishable by

deprivation of liberty for a term of four to seven years.

13. Actions stipulated by paragraphs one or two of this Article when committed in respect to a minor (up to 18 years of age), or by organized group, shall be punishable by deprivation of liberty for a term of five to ten years, with or without the forfeiture of property.

14. Actions provided for by paragraphs one, two, or three of this Article, if committed against a minor (up to 14 years of age) or when they caused grave consequences, shall be punishable by deprivation of liberty of eight to fifteen years, with or without the forfeiture of property.

Note 1. Pimping in this article shall be understood as: actions of a person that ensure the prostitution of another person.

Note 2. Responsibility for engaging or coercing a minor into prostitution according to this Article shall be fixed whether or not such actions were committed with use of deceit, blackmail, or use of vulnerable condition of a minor, or use or threat of violence, through the abuse of authority or by a person upon whom the victim was dependent materially or otherwise.

End of Text.

138. (SBU) (23E) The Government normally provides only general numbers on the status of criminal cases, e.g., whether cases are initiated, pending, or completed. In 2005, the MOI reported that it had detected 415 TIP crimes, initiated 185 cases, completed 72 criminal investigations, charged 138 persons, arrested 99 persons, and submitted 68 cases to the courts. Thirty-seven organized criminal groups, including 14 with international ties, were disrupted. (Note: According to the Criminal Code, an organized criminal group is a group of three or more people who commit a premeditated crime with each of the individuals engaged in separate elements of the crime; e.g., one served as the stakeout, one drove the car, and one robbed the bank. End note.) In 2005, the courts heard 95 TIP cases with prosecution obtaining 85 guilty verdicts under Article 149. Of the 115 individuals who were convicted, 47 were sentenced to prison terms: five for less than two years, four for two to three years, twenty three for three to five years, eleven for five to eight years, and four for eight to ten years. At the time of the drafting of this report, 30 criminal cases under Article 149 were still pending in the courts. The SSU, in cooperation with foreign law enforcement agencies conducted a series of TIP investigations, which resulted in 78 channels of human trafficking being shutdown and 124 persons being arrested in Ukraine. As of January 30, 2006, the GOU reported that 69 traffickers were currently incarcerated.

139. (SBU) (23F) According to information provided by Ukrainian law enforcement agencies, organized crime groups with international connections controlled the trafficking routes, while local recruitment was often handled by employment, travel, marriage, and modeling agencies. Small crime groups also existed and often looked like and operated as family businesses.

140. (SBU) (23F continued) In 2005, the Ministry of Labor and Social Policy withdrew a limited number of domestic employment agencies' licenses because of their involvement in trafficking. The GPO reported that in 2005 there was no evidence of government officials involvement in TIP. However, five regional anti-TIP officers with the MOI were charged with taking bribes related to TIP. Their cases are currently in the courts.

141. (SBU) (23F continued) The bulk of the illegal income generated by TIP activities associated with Ukrainian victims is accumulated abroad where the exploitation of the victim takes place. Foreign traffickers often send money to their accomplices in Ukraine via wire transfers to cover the costs of recruitment, processing documents, and bribing governmental officials. The GPO reported that they had no information indicating that income received from trafficking was being channeled to armed groups or terrorists.

142. (SBU) (23G) MOI and SSU are the responsible law enforcement agencies for investigating TIP cases. Ukrainian law permits electronic surveillance, undercover operations, and mitigated punishment for suspects who cooperate. Police participation in undercover operations is not prohibited by Ukrainian law; however, lack of financial resources and corruption hampered the effective use of these investigative techniques.

143. (SBU) (23H) GOU-financed TIP training was limited to weekly professional training seminars for MOI's anti-TIP Department officers both in Kiev and in the regions. Other

government officials involved with combating TIP, however, did participate on a regular basis in training activities funded by foreign donors. The U.S. Embassy launched a program with the GOU to develop TIP curricula for the Prosecutor's Academy and Judicial Academy. IOM and OSCE also initiated programs to provide TIP training for prosecutors and judges. All three donors closely coordinated their efforts to ensure local ownership and to avoid duplication.

144. (SBU) (23I) The investigation and prosecution of trafficking cases in Ukraine requires cooperation with other governments, but the effectiveness of this cooperation remains limited due to a number of factors: 1) the complicated procedures under Mutual Legal Assistance Treaties (MLAT), 2) the lack of funding to translate documents and correspondence, 3) the legislative differences between countries, and 4) the lack of timely assistance from officials in some destination countries. The latter is a particular issue as under Ukrainian law police and prosecutors have two months to build a case once an individual is charged; extensions can be granted by the court on a case-by-case basis. The GPO reported that 415 TIP crimes were uncovered in 2005 and almost all of them were investigated in cooperation with other governments.

145. (SBU) (23I continued) In 2005, the GPO took steps to simplify and accelerate the procedure for sharing evidence with its sister agencies in neighboring countries. It negotiated an agreement with its Polish counterpart to allow regional prosecutors to convey Mutual Legal Assistance (MLA) requests directly to their regional counterparts in Poland and vice versa; i.e., not have to pass requests through their respective national headquarters. The GPO initiated similar discussions in 2005 with the Slovak Republic and Hungary, and was also engaged in negotiations with the GPOs of Romania and Moldova on a three-way compact to enhance cooperation on combating transnational organized crime, including TIP.

146. (SBU) (23J) The Ukrainian Constitution prohibits the extradition of Ukrainian citizens. The GOU, however, does extradite foreign nationals who are charged with trafficking in other countries. In 2005, Vladimir Volodarsky, an Israeli citizen and an alleged leader of a criminal group, was charged in Israel with trafficking 35 Ukrainian women for sexual exploitation. He had been placed on an international watch list. Volodarsky resided in Kiev where he engaged in real estate business, and allegedly owned a large section of the city's most luxurious shopping center. In March 2005, Volodarsky was detained in Kiev; nine months later he was extradited to Israel. Volodarsky fought his extradition claiming he had obtained Ukrainian citizenship and thus was exempt under Ukraine's Constitution from extradition. He fought extradition because, at the time of his arrest, penalties for TIP were more severe in Israel than in Ukraine. He appealed his case to the Supreme Court, but the GOU was able to prove that Volodarsky had obtained his Ukrainian citizenship illegally. If convicted in Israel, Volodarsky will face a prison sentence of up to 16 years. The MOI official who had assisted Volodarsky to obtain his "Ukrainian" citizenship was dismissed. Interpol and the Israeli police took part in the police operation that led to his arrest. According to MOI officials, Volodarsky offered a bribe of USD 150,000 to Ukrainian officials to release him, but to no effect.

147. (SBU) (23J continued) While the Ukrainian Constitution prohibits the GOU from extraditing its own citizens. Ukrainian law does permit the GOU to extradite foreign nationals who are charged with trafficking in other countries when an extradition treaty exists between the two countries, when the crime was committed within the jurisdiction of the country making the request, and when trafficking is defined as a crime under the laws of the requesting country.

148. (SBU) (23K) Post did not receive any official information suggesting government involvement in or tolerance of trafficking. At the same time, a prosecutor from Chernivtsi shared with the Embassy his view that a TIP case was terminated due to high-level intervention. The allegations were also reported in two media outlets, the newspaper Svoboda (Freedom) and the Internet news outlet Obozrevatel, although a subsequent article in Obozrevatel refuted the allegations. The case involved six brothers who were charged with TIP. They allegedly recruited men from Ukraine for employment in the U.S., and facilitated their illegal entry into the U.S. Allegedly they brought 52 victims into U.S. where they were illegally employed and exploited. From 1999-2003, the alleged criminals tried to legalize their income from trafficking. They transmitted more than USD 500,000 abroad, which was later confirmed by law enforcement agencies in Poland and Germany. They also

bought four gasoline stations, a woodworking enterprise, three houses and two cars. In late 2003, an investigation of the case with the assistance of Polish and German law enforcement bodies resulted in the arrest of the brothers and charges of TIP and money laundering. Their defense attorneys portrayed them as honest businessmen who generously helped others get to the U.S. and earn money for their families. The brothers allegedly acknowledged that they took part of the trafficked men's salaries but claimed it was payment for services rendered. Their attorneys filed a complaint to the Presidents Secretariat claiming severe mistreatment of the defendants by SSU officers. The court turned back the case for insufficient evidence, and it was sent to the SSU in the Ternopil oblast for further investigation where it was eventually closed. Obozrevatel reported that the daughter of one of the defendants told their reporter that it was only through the high-level intervention at the national level that the brothers in 2005 were released.

149. (SBU) (23L) GPO reported that no government officials have been charged with trafficking.

150. (SBU) (23M) GOU has not identified child sex tourism as a problem. Information on how many pedophiles were prosecuted or deported/extradited to their country of origin is not available. However, NGO experts who work with street children reported that there is one place in downtown Kiev where foreign pedophiles are known to look for children. Street children know about it and go there to earn money.

151. (SBU) (23M continued) Amendments to Ukraines Criminal Code came into force on February 10, 2006 which initiated extraterritorial coverage for serious crimes, including human trafficking and child sexual.

152. (SBU) (23N) The Ukrainian government has signed and ratified the following international instruments:
ILO Convention 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labor - ratified, October 5, 2000;

ILO Convention 29 on forced or compulsory labor - ratified August 8, 1957;
ILO Convention 105 on forced or compulsory labor - ratified October 5, 2000.
The Optional Protocol to the Convention on the Rights of the Child (CRC) on the sale of children, child prostitution, and child pornography - ratified April 3, 2003.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime - ratified February 4, 2004.

Protection and Assistance to Victims (Ref A Para 24)

153. (SBU) (24A) Victims of trafficking received various types of assistance including medical, psychological, legal, job skills training, job placement, micro-credits and shelter. Psychological assistance was widely available through state institutions, but medical assistance was available only from shelters funded by international organizations. To strengthen the support infrastructure, USAID funded an anti-trafficking project implemented by IOM to support Ukrainian NGOs, civil society groups and faith-based organizations to provide medical and other services to TIP victims. The IOM office in Kiev, in cooperation with its missions in destination countries, also provided return and reintegration assistance to victims. State Employment Centers provided unemployed women, including TIP victims, with job placement and job skills training.

154. (SBU) (24A continued) Ukraine has three kinds of victim care facilities: a rehabilitation center (established by IOM in Kiev in 2002), six shelters (one run by Caritas in Ternopil, and five run by local NGOs with IOM assistance under European Commission (EC) funding in Odesa, Lutsk, Chernivtsi, Zhytomyr, and Kherson) and a transit shelter for non-Ukrainian victims (established in the Black Sea port of Odesa by IOM and managed by the local NGO Vira Nadia Lyubov). The rehabilitation center is a medical facility that provides comprehensive medical, dental, psychological, and gynecological services under one roof. It is not intended to be a long-term facility for victims of trafficking. Although lodging and security are provided, comprehensive and complex medical assistance is the main function of this facility. The six shelters provide accommodations and a secure environment for medium to long-term stays while victims receive employment training before moving to apartments. These facilities provide medical care, but usually not in-house. The transit center is a short-term facility that provides

accommodations for victims waiting to return home. It provides emergency medical assistance and a secure environment while the victim waits for transportation to be arranged.

155. (SBU) (24A continued) The MFA continued to assist victims in destination countries to return home. In 2005, Ukrainian Consulates repatriated 498 Ukrainian TIP victims. The MFA opened six centers for the protection of Ukrainians going abroad in Kiev, Lviv, Simferopol, Uzhgorod, Odesa and Donetsk. The centers provided free consultations to Ukrainian citizens regarding their rights abroad.

156. (SBU) (24B) In 2005, MFYS worked with IOM to implement an EC-funded project to open shelters in Odesa, Lutsk, Chernivtsi, Kherson and Zhytomyr. The buildings for the centres were provided by the local administration for nominal rents and the NGOs used the EC funding with IOMs support to renovate the facilities. In some cases, local administrations agreed to cover the expenses related to the hiring of a social worker for the shelter.

157. (SBU) (24C) The SSU screened all persons repatriated or deported to the Black Sea port of Odesa; if a person was identified as a potential TIP victim, regardless of nationality, the SSU referred the victim to the appropriate shelter. At the international airport in Kiev, the MOI's Department for Combating TIP fulfills this function.

158. (SBU) (24C continued) MFA conducted regular refresher trainings for its diplomats on how to accelerate the process for confirming the identity and citizenship of a Ukrainian trafficking victim and how to provide them with appropriate travel documents to return to Ukraine. Ukrainian consular officers were also under instructions to maintain good working relations with IOM offices in their respective countries of duty. The simplified procedures for facilitating returns were introduced in 2003 and are updated annually. When a victim of trafficking approaches a Ukrainian Embassy or Consulate, the Ukrainian diplomat refers the victim to IOM to ensure the victim is safe from being re-trafficked. Ukrainians victims are repatriated to Ukraine by commercial air. An IOM staff member escorts the victim to the airport and accompanies the victim until s/he is seated on the airplane. When they arrive in Ukraine, the victim is met at the airport and depending on his/her wish is escorted to the IOM's rehabilitation center. The Ukrainian government has actively supported this procedure.

159. (SBU) (24D) Up until February 10, 2006, under the old Article 303 of the Criminal Code, victims of trafficking could be prosecuted for prostitution. The GOU, however, never exercised this option during the reporting period. TIP victims are also by law immune from prosecution for illegally crossing the state border. The law reads that any person who is confirmed to have suffered a crime because of their illegal movement across the Ukrainian border shall be treated as a victim of the crime. However, victims' rights are often abridged during court hearings in which female trafficking victims are still often characterized as prostitutes, a common tactic of defence lawyers, and thus victims are denied rights of confidentiality and respect for dignity. An unsympathetic

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attitude towards TIP victims is also common among prosecutors and judges.

160. (SBU) (24E) The GOU has legislation in place that should facilitate and encourage victims to assist in the investigation and prosecution of trafficking, but the lack of resources has hampered the effective utilization of this legislation. According to the provisions of the Code of Criminal Procedure and the Law on Protection of Individuals Involved in Criminal Proceedings there are four ways in which concerns related to testifying may be addressed within the Ukrainian criminal justice system: closed hearing, court hearing held via a camera, witness testimony given in the absence of the defendant, and witness being relieved of the obligation to report to a court hearing provided that they confirm their previous testimony in writing. Article 52 of the Criminal Procedure Code of Ukraine also allows for victims who acted as witnesses in criminal proceedings to be represented by an attorney at the trial in order to ensure the protection of their rights. Since most victims cannot afford their own legal representation IOM has assisted in this matter.

161. (SBU) (24E continued) Ukraines Code of Criminal Procedure grants victims of crimes the right to claim civil compensation for material and/or moral damages suffered as a result of the crime. A victims claim for civil compensation may be handled either as a part of the criminal proceedings against the accused or through a separate civil proceeding. As a rule, criminal law judges did not allow civil suits to be handled simultaneously with the criminal case. Victims had to initiate a separate civil procedure, thus reliving their trauma. Nevertheless,

several victims pursued the civil suit route and received damage compensation in the amount of UAH 500-1000 (equivalent to USD 100-200). Since the GOU was not able to fund adequately the witness protection provisions mentioned above, the majority of victims of trafficking were not willing to come forward and report the crime they suffered. A poll of victims cited as the main reasons for victims unwillingness to come forward: 1) belief that the judicial system was corrupt, 2) fear of retaliation from traffickers, 3) belief that it would be difficult to prove they had been trafficked, 4) drawn out court proceedings that would delay their ability to move forward with their lives, and 5) inadequate physical protection.

162. (SBU) (24F) Despite the requirement established in the Comprehensive Anti-TIP Program for 2002-2005 that the GOU create efficient mechanisms for protecting victims in criminal court proceedings, the only forms of victim protection currently existing under Ukrainian law were those outlined above in the Law on the Protection of Individuals Involved in Criminal Proceedings. Victims of trafficking were not singled out in terms of witness protection. Few crime victims in general were provided protective measures.

163. (SBU) (24F continued) The GOU did not fund any shelters directly, but did support a few by providing access to facilities or by providing in-kind logistical support. For example, the premises for all six shelters are provided by local administrations at a nominal fee. In some regions, local administrations have paid the expenses to hire a social worker for the center.

164. (SBU) (24F continued) The GOU has 95 temporary shelters for homeless children; however, these shelters do not have any specialized programs or services for children who have been trafficked.

165. (SBU) (24G) The GOU, in cooperation with international organizations, provided specialized training for investigators, prosecutors and judges on how to investigate and prosecute trafficking cases. MOI held regular meetings and training sessions for its anti-trafficking units throughout the country. The GOU also actively cooperated with foreign donors, international organizations, and NGOs on improving skill levels of law enforcement officers, including victim sensitivity training. With the support of IOM, regional seminars were held in five cities of Ukraine for representatives of MOI, prosecutors, and judges.

166. (SBU) (24G continued) The GOU addressed the special needs of trafficked children in the framework of a Project with ILO funded by the USG and the German Government. Thus, in January 2006, training for social workers and psychologists from state institutions on how to work with child victims of trafficking was conducted by the NGO Womens Consortium.

167. (SBU) (24G continued) In 2005 the MFA distributed special instructions related to the protection and assistance of victims of trafficking to all Ukrainian consulates abroad. In addition, consular officers were required to receive special training where TIP issues were addressed before assuming overseas assignments. In 2005, the MFA also brought together all of its consular officials from its missions in the Black Sea region to Istanbul for specialized TIP training.

168. (SBU) (24G continued) The MFA reported that consular officers in destination countries had developed good relations with IOM offices and local NGOs supporting victims of trafficking. IOM has confirmed this to be true.

169. (SBU) (24H) See answers to question A in section 21.

170. (SBU) (24I) IOM, OSCE, Caritas and La Strada Ukraine have offices in Ukraine currently implementing anti-TIP projects. IOM is implementing a two-year project funded by USAID aimed at strengthening local NGOs, civil society groups, and faith-based organizations that work with TIP victims. La Strada-Ukraine supported 24-hour hotlines for victims of trafficking and domestic violence in almost all of the regions of Ukraine. There were also a number of local NGOs that dealt exclusively with TIP, with the most active being Revival of the Nation (Ternopil), "Vira Nadia Lyubov" (Odesa) and "Women of Donbas" (Luhansk). They provided support to Ukrainian victims of trafficking and to individuals who were trafficked to Ukraine or were passing through Ukraine from a former Soviet republic. Between March 2004 and January 2006, the international NGO Caritas provided 27 victims of trafficking with reintegration assistance. Another 130 women received reintegration assistance without staying at the Caritas run shelter. Caritas also established a network of counseling centers which provide social services to trafficked women

in Khmelnytsky, Ivano-Frankivsk, Sokal, and Drohobych. Between January 2004 and January 2006 these centers provided 1,937 consultations regarding the prevention of trafficking. Another 31 smaller NGOs facilitated cooperation between victims, communities, and law enforcement organizations in addressing trafficking issues. Local NGOs, drawing on their own resources, foreign donor assistance, and the support of local administrations continued to serve as key partners in preventing trafficking and supporting the special needs of TIP victims to reintegrate back into the life of their communities. NGOs also operated 18 regional hotlines for trafficking victims in different cities.

171. (U) The Embassy point of contact for this report is the Head of the Law Enforcement Section, Michael Scanlan. He may be reached by email (ScanlanMD@state.gov), telephone (+38-44-490-4396), fax (+38-44-490-4081) or IVG

172. (U) The following personnel time was spent on this report:

- INL officer 20 hours
- INL Assistant 60 hours
- Political Counselor - 1 hours
- Executive Office - 3 hours

This accounting does not include time spent working on posts interim assessment submission, the TIP component to the Human Right Report or TIP spot reporting or program implementation and coordination.

Herbst